

6 things you need to know about ADA Accommodations

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The Americans with Disabilities Act (ADA) is a civil rights law that was signed into law on July 26th, 1990. The ADA prohibits discrimination against, and provides equal opportunity for, individuals with disabilities in all areas of life, including jobs, schools, transportation, and all private and public places that are open to the public.



1. Interactive Process

When an employee requests an accommodation, an employer must engage in an interactive process with the employee. This process should determine what kind of accommodation will allow the employee to return to work and undertake the essential functions of their job. The employer can then determine if this accommodation is reasonable, or if it will cause an undue hardship. The interactive process should continue until an agreement is reached.



2. Medical Information

It is considered discrimination to request information regarding an employee's medical condition unless this information is asked of all employees. An individual medical examination or inquiry cannot be made unless it is shown to be job-related and consistent with business activity. Any medical information received from employees must be treated as confidential.



3. Job description

To ensure your employees can meet the essential functions of their job, it is a good idea to have a clear and concise written description of the job before hiring resources. This description can be used as documentation when determining if an accommodation will allow an employee to perform the essential functions of their role.



4. ADA and FMLA

The leave provision of the FMLA is separate from the reasonable accommodation obligations of employers covered under the ADA. An ADA disability and an FMLA serious health condition are different and must be analyzed separately. It is worth noting that an employee is entitled to group health plan coverage while on FMLA leave, but the ADA does not provide the same coverage for an employee.



5. Undue Hardship

A request for an accommodation under the ADA can be rejected by an employer if they can demonstrate that the accommodation would impose an undue hardship. There are a variety of factors that can be used to determine if a particular accommodation would impose an undue hardship, including the type of covered entity, and the financial resources involved in the provision, as outlines in § 12111 (10) (b).



6. Documentation

Documentation is key in the accommodation process. The entire interactive process needs to be documented along with the accommodation decision. If it is determined that providing the employee with a particular accommodation would cause an undue hardship, this needs to be clearly documented with supporting evidence. This way if a litigation case is ever brought to the employer, they have a documentation trail.

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